

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

ANGELINA KAY MURPHY,

Plaintiff,

v.

Case No. 8:22-cv-805-MAP

COMMISSIONER OF SOCIAL SECURITY

Defendant.

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ORDER

Before me is Plaintiff's Unopposed Petition for Award of Attorney Fees Under the Equal Access to Justice Act (doc. 38). Plaintiff seeks payment of attorney's fees in the amount of \$6,848.31 pursuant to the EAJA.¹ On January 30, 2023, I entered an Order remanding Plaintiff's case to the Commissioner for further administrative proceedings (doc. 36); the Clerk of Court entered judgment in Plaintiff's favor on the same date (doc. 37).²

¹ Attorney Dax J. Lonetto, Sr. requests fees at the hourly rate of \$232.67.63 for 23.7 hours of attorney work performed in 2022 and fees at an hourly rate of \$238.22 for 5.6 hours of attorney work performed in 2023 (doc. 38 at 3).

² The plaintiff in a social security case has 30 days beyond the 60-day appeal window to apply for fees and other expenses under the EAJA, for a total of 90 days after judgment. *See* 28 U.S.C. § 2412(d)(1)(B), (d)(2)(G); Fed. R. App. P. 4(a)(1)(B); *Gates v. Barnhart*, 325 F. Supp. 2d 1342, 1343 (M.D. Fla. 2002). In this case, Plaintiff timely filed her application for fees on May 1, 2023 (doc. 38).

In *Reeves v. Astrue*, 526 F.3d 732 (11th Cir. 2008), the Eleventh Circuit held that an EAJA fee award is awarded to the “prevailing party,” not to counsel. However, in this case, Plaintiff has agreed to assign the EAJA award to her counsel (doc. 38 at 16). The Commissioner does not oppose Plaintiff’s motion. Therefore, by virtue of the fee assignment and Defendant’s lack of opposition, the award is payable to Plaintiff’s counsel.

Accordingly, it is ORDERED:

1. Plaintiff’s Unopposed Petition for Attorney Fees pursuant to the Equal Access to Justice Act (doc. 38) is GRANTED; and
2. Plaintiff is awarded attorney’s fees in the amount of \$6,848.31 to be paid directly to Plaintiff’s counsel, if Plaintiff does not owe a debt to the Government.³

DONE AND ORDERED at Tampa, Florida on May 5, 2023.



MARK A. PIZZO
UNITED STATES MAGISTRATE JUDGE

³ The Commissioner will determine whether Plaintiff owes a debt to the government. If she does, fees shall be made payable to Plaintiff and delivered to Plaintiff’s counsel to satisfy the debt.